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FISCAL IMPACT REPORT

ORIGINAL DATE 1/19/07
 LAST UPDATED 3/6/07 HB 46/aHCPAC/aHJC

SPONSOR Heaton

SHORT TITLE Prescription Drug Donation Program SB _____

ANALYST C. Sanchez

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY07	FY08		
	NFI		

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From
 Pharmacy Board (RLD)

SUMMARY

Synopsis of HJC Amendment

The House Judiciary Committee amendment for HB 46 removes the liability waiver section for pharmacies and drug manufacturers. The manufacturers' liability waiver was an amendment in HCPAC. The amendment also defines prescription medicine as a dangerous drug. There are form requirements for a recipient of a donated drug to sign. The form was modified by removing the reference to the immunity provisions of the program since those provisions were struck in this amendment.

Synopsis of HCPAC Amendment

On page 5, between lines 9 and 10, insert the following new subsection:

“K. In the absence of bad faith, pharmaceutical manufacturers shall be immune from civil or criminal liability for any claim or injury, death or loss to person or property arising from the transfer, donation, dispensing or acceptance of any prescription drug donated to this program pursuant to the provisions of this act, including liability for failure to transfer or communicate product or consumer information regarding the transferred drug, as well as the expiration date of the transferred drug.”

Synopsis of Original Bill

House Bill 46 creates a new section of the Drug, Device and Cosmetic Act allowing for a drug repository program where pharmaceuticals may be donated/re-dispensed through pharmacies (includes clinics) licensed pursuant to the Pharmacy Act and for qualified patients. Eligibility standards will be determined by economic need. The donated/re-used pharmaceuticals must be in tamper-evident packaging. The Pharmacy Board will maintain a list of participating pharmacies. Liability is waived for pharmacies dispensing donated pharmaceuticals and for the person donating such medications when acting in good faith.

FISCAL IMPLICATIONS

Fiscal implications to the Board will be minimal

SIGNIFICANT ISSUES

The safe destruction of pharmaceuticals is a major concern of the Board. Studies have shown significant levels of pharmaceuticals in our nation’s water supply including the Rio Grande. What percentage of this is from pharmaceuticals destroyed via the sewage system is unknown. Programs to allow the re-use of pharmaceuticals, that otherwise would have to be destroyed, are being implemented in other states (approximately 22 states).

Various states have enacted legislation allowing for “drug repositories”. The programs are typically limited to serving specific eligibility groups (uninsured, indigent, limited resources, cancer, charitable or needy persons abroad).

ADMINISTRATIVE IMPLICATIONS

The Board of Pharmacy would adopt regulations specifying the benefactor groups for this program. The regulations would also include any other standards deemed necessary by the Board. Lists of participating pharmacies and eligibility requirements would be maintained on the Board’s web site.

OTHER SUBSTANTIVE ISSUES

The Board of Pharmacy suggests adding waiver of liability for drug manufacturers, which was inadvertently omitted from the original Bill.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

The Board of Pharmacy would be limited in its ability to create a drug repository program. The Board has already enacted regulations specific for the re-use of pharmaceuticals in this state’s correctional facilities.